HUMAN RIGHTS PROTECTION OF REFUGEES UNDER INDIAN JUDICIARY

SHORT SYNOPSIS

Submitted in partial fulfillment of the requirement of the degree of

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by

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vidyanatariksha
MANAV RACHNA UNIVERSITY
(FORMERLY MANAV RACHNA COLLEGE OF ENGINEERING
NAAC ACCREDITED 'A' GRADE INSTITUTION)
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DECLARATION BY THE SCHOLAR

I hereby declare that the short synopsis **"Human Rights Protection of Refugees under Indian Judiciary**" being submitted in partial fulfillment of the requirement for the degree of Doctor of Philosophy in department Law under Faculty of Law of Manav Rachna University, Faridabad during the academic year 2021-2022.

It is a bona-fide record of original work carried out under the supervision of **Dr S.K. Bose and Dr. Tarundeep Kaur** and has not been submitted in full or part to any other University or institute for degree or diploma. Further, it is certified that short synopsis is within the plagiarism limit (7% similarity index) and copy of the same is attached as per university norms.

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Abstract

'Refugee's is a term though has been part of the human history for ages has gained attention in the recent past never like before. They are considered to be the human barorneter of political stability of counties today. Refugee are also seen as contributing components of society in all across the world. These particular population has become evidences for political failure or success in most of the countries. A considerable population of refugees living at a given place is most of the time considered as a good indicator of a breakdown in governance these days and most often it always an item in the election propaganda.[1] The study ais to look at the life of the refugees beyond election and political sphere to the aspect of their right basic human rights.

It is fact that there have been internally displaced people due to various reasons, asylum seekers who plea from their countries, and refugees as per the international definition spread throughout history. This will continue to be the case as long as there are wars, conflicts, persecutions and political instabilities. Today we are in a situation where we have refugees all over more than ever in the past. And so, it goes without saying that the protection of these refugees and displaced people have become the matter of concern more than even in the past.

The "1951 Refugee Convention"[2] and the "1967 Protocol" are the main reference points for ensuring the safety of the refugee. The principle of "non-refoulement" and the principle of "Non-discrimination" are the essence of creating safe environment for refugees. However, countries like India who are not signatory to the 1951 convention and those do not have a specific refugee law are hosting large number of refugees. In such situations the rights of the refugees are largely dependent on the international and national human rights principles. Therefore, a study on the effectiveness of ad- hoc mechanisms to deal with the growing crisis becomes really relevant especially in India where there are no refugee protection laws and specific legislature to protect the rights to refugees.

[1] The 1984 Cartagena Declaration on Refugees, available at: http://www.refworld.org/cgibin/texis/vtx/rwmain?docid=3ae6b36ec
[2] The Refugee convention, 1951

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1. Introduction

Since the second world war there has been the development of international refugee law which apparently defined the refugees and structured measures to protect the refugee with the guarantee of minimum human rights. Although the problems associated with the violation of the basic human rights of the refugee were prevalent even after the development of the international refugee laws.[1] The UN body that was formed for the specific protection and care of the refugees, the "United Nations High Commissioner for Refugees (UNHCR)" and other humanitarian agencies have started taking the situation seriously only when it has reached its maximum heights.

Although the problems associated with the protection of refugee were present in the world the non-intensive approach of the UNHCR and agencies were sufficient to contain the issue to large extend. However today the context has changed and we need much more accelerated approach with surgical precision to manage the refugee crisis. Present time even the attitude to the governments and various political parties have changed[2]. India has an age-old tradition of accepting refugees and asylum seekers as per the simple humanitarian policy. It has a very liberal refugee policy though nothing is officially written. India has no refugee specific legislation and separate refugee protection law. The absence of a refugee specific legislation has created lot of confusions in the country especially in managing the people from outside the country irrespective of the objective of their presence in the nation. However, it must be noted that even in such absence of a specific law, India has stood tall among the nations as country that has effectively addressed the needs of refugees who have approached its land for safety and security. In the absence of a national law on refugees, the protection regime offered by India for refugees/foreigners is based on the Indian Constitution and other relevant legal provisions and International Human Rights standards.[3]

The lives of refugee and the protection that they are able to enjoy in the host country especially if the host country does not have refugee laws. The living condition of the

[1] B. S. Chimni (ed.), International Refugee Law (Sage Publication,2000)
[2] UNHCR Global Appeal 2011 (Malaysia-UNHCR) available at https://www.unhcr.org/4cd96fc59.pdf
[3] UNHCR India fact Sheet, Dec 2020: available at https://reporting.unhcr.org/sites/default/files/UNHCR%20India%20factsheet%20-%20January%202020.pdf

refugees with reference to their identity, right to employment, freedom movement and right to property etc... will to be studied as part of the research to have a comprehensive idea on the life of a refugee.

> 'Refugee regime' which generally conforms to the international instruments on the subject without, however, giving a formal shape to the practices adopted by it in the form of a separate statute. Refugees are no doubt 'foreigners. Even though there may be a case to distinguish them from the rest of the 'foreigners', the current position in India is that they are dealt with under the existing Indian laws, both general and special, which are otherwise applicable to all foreigners. 4This is because there is no separate law to deal with 'refugees. For the same reason, cases for refugee 'status' are considered on a case-by-case basis.

Mostly the protection of the refugees is largely based on the international human rights laws and humanitarian considerations.

2. Literature Review

***"The Rights of Refugees under International Law"*[5] by James C. Hathaway**

This could be actually considered as the first detailed narration on the human rights of refugees as according to the principle of the various refugee conventions. In a time where States keep challenging the rationale behind the intake of refugee to their country against the wish of the citizens the thought of sharing the limited resources with the refugee are not well accepted by many. The book explains the view points of the people who think that the refugee should not enjoy benefits of a nation more than the natural citizens. It details the implications of various international conventions and the protection of refugees. The book also speaks about the right of the national as well. This book offers a critical resource fit for legal policy makers and is very useful for my study of legal rights of refugees.

***"An Introduction to International Refugee Law"* [6]by M. Rafiqul Islam and Md. Jahid Hossain Bhuiyan**

This book offers and outline on the various aspects of the international refugee law and the protection of the refugees. It deals elaborately with the jurisprudence on the legal status of refugees, what to do if they lose and are denied of the refugees' status. It

[4] UNHCR Global Report 2013, available at: http://www.unhcr.org/gr13/index.xml (Visited on March 2,2015

[5] James C. Hathaway (Author), The Rights of Refugees under International Law, Cambridge University Press (15 September 2005)

[6] M. Rafiqul Islam and Md. Jahid Hossain Bhuiyan(ed.) An Introduction to International Refugee Law (Brill, Nijhof, 15th May 2013)

discusses at length the principle of non-refoulement. The book provides an in-depth understanding of the, issues of the refugees. It also deals with difficulties of the states in providing the refugee with required protection. It clarifies the relationship between various conflict and the refugees produced by each of these conflicts like, armed conflict, climate change, and human right violations etc... This book is something that provides clearly written on the various aspects of refugee life is very helpful to my studies to understand the inadequacies of international refugee law in real life situations.

"Refugees and the State"[7] **edited by Ranabir Samaddar**

The book also speaks about the movements of refugees from Burma into India. It talks about the attitude of India and the warm acceptance of the refugees. It gives a good overview on the remarkable change in India's attitude to the refugees from Burma especially those arrived towards the end of 1990. The role of UNHCR and their mandate is also discussed in the book at length. In the conclusion the author speaks of the need for India to have a "national refugee law" that would look at the socio- economic rights of the refugees so as to treat all the refugee across the county equally without any special consideration to any particular groups.

"*Refugees and Rights*"[8] **by Mary Crock**

The book discusses on the present-day practice of states while dealing with the issues associated with refugees. The one issue that the book deals with is the short-term arrangements that they have. The second option that finds a place in the book is the possibilities of the citizenship possibilities and they become the citizens of the counties. The book offers various insight on the aspects for the protection of refugee and the gaps in their intended intention and the actual reality. It also narrates the current state of affairs and deals with possible solution to overcome the gaps.

"International Refugee Law"[9] **by B.S. Chimni**

The book speaks about the importance of the need for having a separate legal polices for safeguarding the rights of internally dislocated people and also explains about the possibilities of the durable solution for refugees. This is a book that gives details on

[7] Ranabir Samaddar(ed), Refugees and the State (Sage Publications, New Delhi 2001)
[8] Mary Crock(ed), Refugees and Rights (Routledge, December 9, 2015)

[9] B.S. Chimni (ed.), International Refugee Law 381(Sage Publications, New Delhi, 2000)

the "international law relating to refugees and how refugees are defined under various legislations". The role of UNHCR in refugee protection across globe and factors responsible for refugee flows are discussed in details by the author to a considerable length. It draws a clear distinction between he IDPs and refugee and explains the need to treat both of these groups separately. The author also gives the details about the vulnerable conditions of the refugees living in India particularly those in Delhi and the treatment of the governments towards them.

"*Refugee Law and Durability of Protection: Temporary Residence and Cessation of Status"*[10] By Maria O'Sullivan

The book discusses the possible protection support to refugees and durability as one of the major responses to the refugee issues. It speaks of various aspects refugee laws and the ways in which they are able to avail the durable measures to their issues as refugees. The books give details of the application of the principles of the refugee convention by different states while offering best protection space for the refugees. The book also gives the possibilities international support for the durable solutions for taking care of the needs of the refugees. It also speaks about the possibilities of international attention to the cause of the refugees in the years to come.

***"Missing Boundaries"*[11] edited by P.R. Chari, Mallika Joseph, Suba Chandran**

The book gives a clear understanding of the refugees and their life condition in South Asia. The author clearly brings about the importance of national polices and laws to protect the refugees and their legitimate human rights. In the course of the narration the author also gives details on the role that India as leading democracy need play with regard to the refugee protection. The author points out the difficulties that the refugee face in India especially due lack of identify documents and the recognition issues associated with the certificates those are issued by UNHCR. He concluded the book with few recommendations to safeguard the rights of the refugees in India.

[10] Maria O'Sullivan(Author), Refugee Law and Durability of Protection: Temporary Residence and Cessation of Status, (Routledge, December 2018)

[11] P.R. Chari, Mallika Joseph, et.al. (eds.), Missing Boundaries 99 (Manohar Publishers, New Delhi, 2003)

***"Refugee Law and Policy in India"*[12] by Rajeev Dhawan**

This is a book that discusses the situation in India and the domestic laws of India those are applied the refugees who are staying in India. He points out the provisions under the "Foreigner's act" which gives the power to the central government for forming the polices to deal with foreigners. Quite a bit of the book is dedicated to the role that is played by UNHCR in Indian to protect the rights of the refugees in India. The book also discusses the mandate of UNHCR and their limitations in providing services to the refugees.

Another interesting aspect of the book is that it deals in detail the way the courts in India behaves with refugees. It gives references to the judgments given by the Indian courts in which the Indian courts have acknowledged the right of the asylum seekers to have their status determined. The role of UNHCR from the perspective of the court is also prat of the discussion in the book.

***"Stateless in South Asia"*[13] by Deepak K. Singh**

The book largely discusses about the lives and issues of Chakma refugees. It elaborates on the fights that still the community is making for their basic human rights. The author says that all the difficulties and inhuman harassment and mental torture that these particular group of refugees had undergone is because of the lack of precision on the part of the law to handle their issues. Political ad-hocism according to the author is the result of the lack of clarity of law and it is the reason that the refugees are treated differently from time to time based on the political parties and their ethos.

***"UNHCR Global Report 2013"*[14]**

This report gives an idea about the services that UNHCR is providing to the refugees in India. The report speaks of all the support that they provide to safeguard the rights of the refugees in Delhi. The report itself speaks about the challenges of these services on the ground. This report details the recent increase in the number of asylum seekers from Myanmar (Rohingya people) and Afghanistan. It gives the details of the data on

[12] Dhavan,Rajeev, Refugee Law and Policy in India (PILSARC, New Delhi, 2004)
[13] Deepak K. Singh, Stateless in South Asia (SAGE Publications, New Delhi,2010)
[14] UNHCR Global Report 2013, available at: http://www.unhcr.org/gr13/index.xml (Visited on March 2,2015)

refugee and says that around 27,000 refugees from various parts of the globe and are presently in India.

***"Repatriation of Sri Lankan Refugees: unfinished Tasks"*[15] by Abhijit Dasgupta**

The books speak about the flight of the Sri Lankan refugees in India and their decades of struggle in the county. The author gives the details of the support given to them by the government of India and the role that UNHCR plays in providing them the basic human rights. Many of these refugees are now unwilling to go back to their home country as they feel more like strangers than they are here in India. Their repartition is on with the support of UNHCR but it is very slow process and many of those who are repatriated are not so happily settled over there. The book gives an overview of the life of the Sri Lankan refugees in India and their struggle though they apparently are better than the many refugee groups in India.

Urban Profiling of Refugee situation[16] by UNHCR in Delhi

This study done by UNHCR give in details the various issues faced by different nationalities of refugees in Delhi and NCR. It elaborates on the employment issues of the African nationalities. The study brings forth the challenges of the refugees in urban areas to find a meaningful employment despite various supports provided by UNHCR and their partner agencies. Many refugees are qualified to work in formal sector but due to lack of documentation and work permit they are not able to find qualification appropriate jobs. Most of the educated refugee end up doing all menial jobs to find earnings.

***"Afghan Refugees in India"*[17] by Ashish Bose**

It is an article that discusses at length on the situation of the refugees from Afghanistan and who are now in India especially those who are living now in Delhi and NCR. The author discusses about the attitude of the locals toward this community. The article gives a picture of the struggles which refugees face even though they all are officially registered with UNHCR and has their specific

[15] Dasgupta, Abhijit, "Repatriation of Sri Lankan Refugees: unfinished Tasks", EPW 2365-2367(2013)
[16] UNHCR, Report: Urban profiling of Refugee situations in Delhi (2013)
[17] Bose, Ashish, "Afghan Refugees in India", 39 EPW 4698-4701 (2004).

registration numbers. Most of the refugees have issues of not having a valid passport and the lack supporting documents from FRRRO. They all face harassment at the hands of the local police who are not really aware about the refugee certificates and its relevance.

"*International refugee law and human rights: a study of the status of refugees in Northeast India*"[18] by Diganth Raj Sehgal

This article is an exhaustive article which deals with "international refugee law and human rights" with reference to the situation of refugees in northeast India. The author speaks about various national and international refugee conventions and the human rights those are guaranteed by these conventions to every person on the run. It speaks about elaborately on the rights of the refugee and those which needs to be protected. The author deals with the situation of the refugee in India with special reference to these in north east. The author also briefly speaks about the citizenship amendment act 2019 and its impact on the lives of the refugees.

***"India Needs a Refugee Law"*[19] by Saurabh Bhattacharjee**

The report emphasizes India's apathetic attitude toward various immigrant groups and how judicial intervention is limited to specific circumstances. In addition, the paper briefly examines the fundamental rights that refugees have under the constitution. In addition, the author briefly discusses the historic cases that give refugee status. He believes that legislation is necessary.

3. Research Objectives

- To study and understand the gaps in existing laws, policies and practices related to protection of the human rights Refugees in India.
- To apprehend the possibilities of a legal frame work for the safeguarding the protection of the rights of refugees in India and the rationale for not having it.

[18] Diganth Raj Sehgal International refugee law and human rights: a study of the status of refugees in Northeast India, July 2021 https://blog.ipleaders.in/international-refugee-law-human-rights-study-status-refugees-northeast-india

[19] Bhattacharjee, Saurabh, "India Needs a Refugee Law",43 EPW 71-75 (2008)

- To study understand the kind of violation of the human rights and the legal disregards faced by refugees in India.
- To understand how lack of legal framework affects the very identity and survival of refugees with basic human rights.
- To find possible way forward and legislative reforms for refugees and for their protection especially the human rights aspects of refugee in India in the present context of absence of a specific law.

4. Research Methodology

The Research study will be largely doctrinal study with bit of empirical elements. Since the study focus on the protection of the refugees in India the study will largely focus on the refugee in Indian and the protection cases related to them. The types of research design will be used in this study are descriptive, exploratory in nature. Descriptive research will include various mechanism to find the actual facts of the matter under study. Primary data will be collected by observation, interviews and questionnaires through different available technologies, and knowledge seekers from different stratum like researchers, students and legal practitioners. Observations will be carried through existing search engines available on internet. The questionnaire will be used to know about the actual life situation of the refugees and their protection situation.

4.1 Operationalizing the Variables

It refers to defining and measuring the specific variables applied for the study. The present study is concerned with the "protection of human rights of refugees" in India in the absence of a specific refugee law. The guarantee of the human rights and legal complications in getting the protection of the basic rights of refugee in India is marked as the "*dependent variable"* of the study. The variable that may influence the dependent variable is chosen as independent variables. The "*dependent variable*", protection of the basic human rights of the refugees consists of five factors which determine the legal rights of the refugees namely need of official recognition, living condition, accessibility to various government services, acceptance as legal entity and the fundamental rights available to the citizens. Besides, the dependent variable, economic conditions and living standards of refugees will also consists of one variable.

The independent variables are segregated into three dimensions namely principle of non-refoulement, support of legislation and international treaties on refugee protection. The same has been represented in the conceptual framework of the study.

4.2 Research Problem Definition

> The Constitution of India guarantees various fundamental rights to refugees on equal footing as the citizens of India, including the right to equality under Article 14, the right to life under Article 21, the right to protection against arbitrary arrest under Article 22, the right to be protected against double conviction for the offences under Article 20, the right to freedom of religion under Article 25, and the right to seek justice from the Indian Courts.

India is a signatory to several human rights conventions and has consistently demonstrated its abiding commitment to the principles of protection and non-refoulement, despite not being a signatory to the Convention of 1951 or the Protocol of 1967.

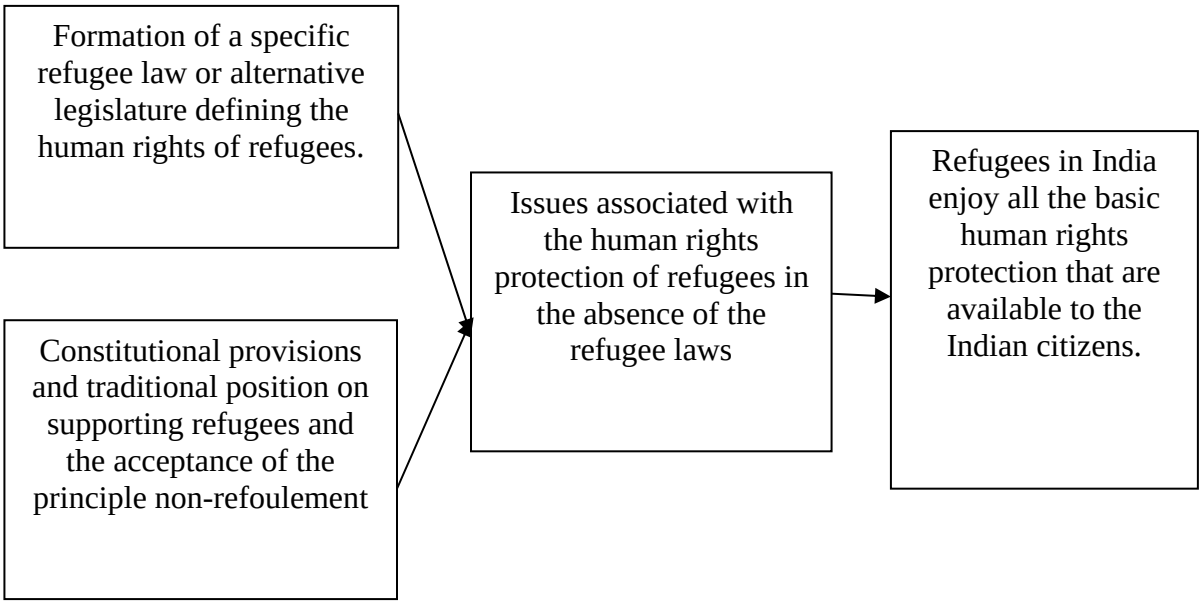
The cry of the word in recent times with the development of the atrocities around the world has been to ensure the human rights to every human being irrespective of their nationality and race. However, despite the best efforts by many, the basic human rights do not seem to be an absolute guarantee for any individual. One of the reasons for this could though the human right especially international human rights and refugees are terms which even today has an element of ambiguity which leaves perspective interpretation. Thus, the absence of harmony on definitions of concepts in "*international human rights law"* in "*international law*" and in "*refugee law*" could be considered as the major contributing factors that hinder in guaranteeing the much-required protection of the basic human rights to the refugees.

In the context of lack of clarity, it is impossible for refugees to know what to expect in a county where they are intending to take shelter or refugee. In India too lot of issues around the refugees could be settled if we have a clarity. The proposed study is an attempt to examine the protection afforded to refugees in India especially in the situation where it lacks a specific law to ensure it. What the study hopes to look at the condition of the refugees, their conditions in India, what are their expectations from country that has no refugee law, what could be the possible way forward for India in legalizing what we have been offering to the refugee since ages.

4.3 Research Questions

- What is the status of the refugees in India and their position under the Indian judiciary?
- What is the mechanism in India to project the human rights and entitlements of the refugees?
- What is the socio-economic status of the refugees in comparison with the citizens?
- What are the major challenges faced by refugees in India to access basic human rights?
- What are the possibilities and scope of developing a legal framework for better protection of the basic human rights of refugees in India?

4.4 Conceptual Framework of the Study


Formation of a specific refugee law or alternative legislature defining the human rights of refugees.
Constitutional provisions and traditional position on supporting refugees and the acceptance of the principle non-refoulement
Issues associated with the human rights protection of refugees in the absence of the refugee laws
Refugees in India enjoy all the basic human rights protection that are available to the Indian citizens.

The conceptual framework provides the objective definition of variables used for the study. It defines clearly to what extent the independent variables namely Formation of a specific refugee law or alternative legislature defining the human rights of refugees and Constitutional provisions and traditional position on supporting refugees and the acceptance of the principle non-refoulement affect life of the refugee especially

protection of their life which in turn affects their human rights protection as refugees in India.

4.5 Hypothesis

There are specific legislations and laws to deal with and protect the rights of all groups of people in India except for refugees who are deprived of basic human rights. The laws policies that are in existence are not adequate to provide protection to the refugees. Lack of nonexistence of legal framework affects the life of asylum seekers and refugees beyond reasonable limits and so only a well-researched understanding of legal challenges of refugees and evaluations of existing legal regime will guarantee the basic human rights to refugees in India.

4.6 Tentative Chaptalization Plan

Chapter 1: Introduction

- Historical background of refugee and asylum.
- The term ‘refugee’?
- The 1951 refugee convention and its consequences on refugees.
- Various international treaties and acts for refugee protection.
- Refugee protection in the global scenario
- Human rights and refugees.

Chapter II: India and Refugees

- The traditional approach of toleration of refugees.
- Indian and polices for the patrician refugees.
- Refugees protected by the government.
- Refugees under the mandate of UNHCR.
- Refugee neither supported by UNHCR nor by government.

Chapter III: Legal Refugee framework in India

- Toleration Policy of India.
- Laws regulating foreigners in India.
- Foreigners Act, 1947.

- Citizenship Act of 1955.
- Citizenship (Amendment) Act, 2019 and its impact on refugees.
- Passport Act, 1920 and the Passports Act, 1967.

Chapter IV: Indian Judiciary and Protection of human rights of Refugees

- Indian Judiciary and refugees.
- Refugee rights and jurisprudence in India.
- Principle of Non Refoulment (No Forced Repatriation)
- Refugees and their legal identity

Chapter V: Refugees Under the Constitution of India

- Constitutional Provisions for the protection of refugees.
- Distinction between refugees and other foreigners.
- Arrest, Detention and Release.
- Applicability and availability of constitutional provisions for refugees in real world.

Chapter VI: International Human Rights and Protection of Human Rights of refugee in Indian

- Human rights commission & Protection of rights of refugee in India
- National Human rights commission and refugee protection.
- UNHCR and their protection mandate of refugees.
- National NPOs and NGOs and their role in protection of human right of refugees.
- Possible duplication of supports and gaps of legal protection.
- Challenges of protection of refugees in India.
- Permeant solutions and resettlement and repatriation.

Chapter VII: Data Analysis and Findings

- Socio Economic condition of various refugee groups in India.
- Identity and Issue of Citizenship among various refugee groups in India.
- Rights and Entitlements of the various refugee groups in India.
- Challenges faced by refugee groups in India.
- Lack of identity crisis of refugees in India.

Chapter VIII: Conclusions and Recommendations

- Possibilities of national legal framework and recommendations.
- National legislation possibilities.
- Relevance of International convention recommendations in India.
- Suggestion to UNHCR for improvement of their protection Mandate.
- Recommendations for human rights commissions.
- Possible inputs for amendment in the citizenship act 1955 to accommodate refugees.

4.7 Sources of Data

4.7.1 Primary Data

It refers to the information obtained afresh and for the first time for the specific purpose of the study. It is collected from refugees staying in India by using scheduled interview method with respect to their awareness of their rights, attitude of the locals, perception, approachability to legal aids, living conditions and accessibility to government services in the absence of a specify refugee law in India. While distributing and collecting data from the refugees, the purpose of the survey will be explained clearly in order to get accurate and fair data from them. To have a better understanding, the questionnaire will be framed in English but for people who does not know the language support of the interpreters will be used.

4.7.2 Secondary Data

In this study, secondary data will be collected from the various case laws, bare acts, International and regional instruments, various human rights policies, websites, journals, articles and dissertation pertaining to the details of protection of the human rights of the refugees, factors affecting the life of a refugee in a host county.

4.8 Methods of Data Collection

The questions will be formulated after referring to extensive literature of journals and articles. It will be designed in accordance with statement of the problem of the study and the specific objectives of the study. The suggestions of experts in the field of international human rights and refugee protection and research experts will be sought

at every stage of designing the final interview schedule. The questionnaire will be largely equipped with few open-ended questions and the others will be closed ended questions.

4.9 Research Participants

The study specially focuses on the refugee in India and their protection of their basic human rights. Although the best practice and figures would be taken from various countries as part of the study especially in the doctrinal aspect the empirical research of the study would focus on the refugee in India and their rights in the absence of law to protect that right.

Although the research will be doctrinal it would also have a chapter on the analysis on the empirical data gathered from the people of concern. The respondents will be the Myanmar, Burma, Afghanistan, Yemen, Somalia, Cameroon, Sudan, Iraq, Syria, Palestine, Iran, DRC, Ethiopia and Eritrea. The sample size would be collected based on the percentage of total population. Although the research would not focus on the refugees from Tibet and Srilanka as they are political refugees in India, they would find a mention in one of the chapters which speaks on the political will to support refugees by the elected government.

4.10 Sampling Procedure and Sample Size Determination

In this study, the population is known and the sample size is well defined for each of the nationalities and target groups the Stratified Random Sampling method will be used for the research study. For the study the proportionate "stratified random sample" will be obtained using formula, that is (sample size/population size) x stratum size. This formula will be applied for each of the groups/nationalities of the refugees in India.

4.11 Research Tools

My research and study will be largely based on the traditional that the legal researcher normal take which is the doctrinal method though I also have also intended to have Empirical method of research to arrive at certain findings which would help my study. In other words, this research study will be largely doctrinal study but there will also a chapter based on the empirical findings. This part of the empirical study will be to

understand and gain the first-hand knowledge of the population under study. Since the study focus on the protection of the refugees in India the study will largely focus on the refugee in Indian and the protection cases related to them. Primary data will be collected from refugees staying in India by using scheduled interview method with respect to their awareness of their rights, attitude of the locals, perception, approachability to legal aids, living conditions and accessibility to government services in the absence of a specify refugee law in India. While distributing and collecting data from the refugees, the purpose of the survey will be explained clearly in order to get accurate and fair data from them. To have a better understanding, the questionnaire will be framed in English but for people who does not know the language support of the interpreters will be used.

In this study, secondary data will be collected from the various case laws, bare acts, International and regional instruments, various human rights policies, websites, journals, articles and dissertation pertaining to the details of protection of the refugees, and various factors affecting the life of a refugee in a host county.

4.12 Tools Proposed of Doctrinal Method

As the research will largely be using all conventional methods those are available for the legal research especially those available for the doctrinal legal research. The following tools would be used for the analysis, finding and evaluation of the research,

4.12.1 Statutory Materials

In this source and tool of the research the legislative Acts could be considered as the basic source. Along with it all categories of subsidiary or secondary legislations those are readily available national legal system will also from part of the statuary material. It also could include all the materials like books, referrals, journals, study materials etc... available on the legislative acts.

4.12.1.1 Case Reports/Case Laws

All the relevant case laws and case reports will be considered as part of the research to gain more legal understanding on the subject. These could enhance the study as the past legal decisions can really give the thoughts of the courts on the subject matter.

4.12.1.2 Standard Textbooks and Reference Books

As part of the research all the standard books and reference materials on the protection of refugees, life of refugees and migrants, publications of various UN agencies and governments on the refugees will be consider and while arriving at the findings of the research.

4.12.1.3 Legal Periodicals

As a legal research in the area of protection and human rights of refugees all the legal periodicals which has a reference to human rights of the refugees will be part of the research analysis.

4.12.1.4 Parliamentary Debates and Government Report

The parliament debates, government report and policies will also be considered while studying the available recourses for refugees in enjoying the basic human rights in India. The various parliament debate and its impacts on the refugees will also have a considerable amount of reference in the research.

Apart from these the traditional doctrinal research tools like library and participation will also be forming the major parts of the tools of the research.

4.12.1.5 Library

Library will be used as one of the effective tools in the research. The full advantages of the world of library resources and the sources linked with it including as open access to the world-wide library resource and social media will be made use for the analysis of the research.

5. Statistical Tools Proposed for Data Analyzation

After collecting primary data using scheduled interview method, the filled in questionnaire will be edited and would duly be recorded. It will be simultaneously updated and organized in the Microsoft excel sheet. The data then will be presented in tabular form, analyzed and interpreted. The data will be tabulated and analyzed with

the support of the software and "*Statistical Package for the Social Sciences (SPSS)*" and the software will be "*Analysis of Moment Structures (AMOS)"*.

6. Scope of the Study

The lives of refugee and the protection that they are able to enjoy in the host country especially if the host country does not have refugee laws. The living condition of the refugees with reference to their identity, right to employment, freedom movement and right to property etc... will to be studied as part of the research to have a comprehensive idea on the life of a refugee.

> 'Refugee regime' which generally conforms to the international instruments on the subject without, however, giving a formal shape to the practices adopted by it in the form of a separate statute. Refugees are no doubt 'foreigners. Even though there may be a case to distinguish them from the rest of the 'foreigners', the current position in India is that they are dealt with under the existing Indian laws, both general and special, which are otherwise applicable to all foreigners. This is because there is no separate law to deal with 'refugees. For the same reason, cases for refugee 'status' are considered on a case-by-case basis.

Mostly the protection of the refugees is largely based on the international human rights laws and humanitarian considerations. India at the moment speaks about so much of visibility creation in the international arena. It also has been making lots of efforts to gain the permanent status in the UN. There are lot of talks on the refugee and their protection in India now than ever before. And therefore, a study on the protection of refugee in the Indian context is relevant and significant.

6.1 Significance of the study

It is fact that there have been internally displaced people due to various reasons, asylum seekers who plea from their countries, and refugees as per the international definition spread throughout history. This will continue to be the case as long as there are wars, conflicts, persecutions and political instabilities.

> As pe the official records of United Nations High Commissioner for Refugees (UNHCR) at the end of 2020 there were 89.5 million people worldwide who have had

to flee their home forcefully. This number includes 26 million Refugees, 45.7 million Internally Displaced Persons and over 4.2 million Asylum Seekers.

Today we have more refugees in the world that ever before in the past and so, it goes without saying that the protection of these refugees and displaced people have become the matter of concern more than even in the past. In such situations the rights of the refugees are largely dependent on the international and national human rights principles. Therefore, a study on the effectiveness of ad- hoc mechanisms to deal with the growing crisis becomes really relevant especially in India where there are no refugee protection laws and specific legislature to protect the rights to refugees.

6.2 Intended impact of the research

- The proposed research will be would be learning material for understanding the refugees from a legal perspective.
- Will be a reference material for the policy makers and competent authorities to have an authentic well researched facts on the practical difficulties of the refugees due to lack legal clarity and case to case approach.
- Will influence and will be ready reference for the process of creation of refugee law in India.
- Will be reference materials for the academia to understand all about refugees from legal and human rights perspective.

6.3 Limitations of the study

Though the study tries to avoid all possible errors of the research area and try to look from a perspective that is holistic to reduce the limitations still would have the following constraints,

- The study focuses largely on the refugee reseeding in Delhi and NCR for empirical research part and so has not been able find desirable amount of representation of refugees who are in other parts of the country in smaller numbers.
- The study does not intend to deal with the internal migrant issues of the country though would make a brief comparison of the legal position of the both IDPs and refugees.

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HUMAN RIGHTS PROTECTION OF REFUGEE UNDER INDIAN JUDICIARY

A

SYNOPSIS

By

LINTO KB

ROLL. NO 2K21-PFL-003

UNDER THE GUIDANCE OF

DR. S.K. BOSE AND DR. TARUNDEEP KAUR

DEPARTMENT OF LAW

Abstract

'Refugee's is a term though has been part of the human history for ages has gained attention in the recent past never like before. They are considered to be the human barorneter of political stability of counties today. Refugee are also seen as contributing components of society in all across the world. These particular population has become evidences for political failure or success in most of the countries. A considerable population of refugees living at a given place is most of the time considered as a good indicator of a breakdown in governance these days and most often it always an item in the election propaganda.[1] The study ais to look at the life of the refugees beyond election and political sphere to the aspect of their right basic human rights.

It is fact that there have been internally displaced people due to various reasons, asylum seekers who plea from their countries, and refugees as per the international definition spread throughout history. This will continue to be the case as long as there are wars, conflicts, persecutions and political instabilities.

[1] The 1984 Cartagena Declaration on Refugees, available at: http://www.refworld.org/cgibin/texis/vtx/rwmain?docid=3ae6b36ec

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Annexure-7

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MANAV RACHNA UNIVERSITY
(FORMERLY MANAV RACHNA COLLEGE OF ENGINEERING
NAAC ACCREDITED 'A' GRADE INSTITUTION)
Declared as State Private University under section 2f of the UGC act, 1956

Comprehensive Review Report

1. Name of the Scholar : Linto KB
2. Department : LAW
3. Date of Registration : 28/12/2020
4. Enrollment No : 2K21-PFL-003
5. Name of the Supervisor : Dr. SK Bose
6. Name of the Co-Supervisor : Dr. Tarundeep Kaur
7. Research Area : Refugee Laws, Refugee Protection: International Human rights
8. Comments:

The DRC committee expressed satisfaction at the detailed pre- research the scholar has done with regard to the study. Everone appreciated the comprehensiveness and clarity of the presentation. The DRC chairperson suggested to include the media reports to add flavor to the study. DRC panel suggested to have some case studies of Sri Lankan & South Indian refugees as part of the chapter that explains the situation of various refugee groups in India. DRC unanimously approved the chapterisation with title – 'Human Rights Protection of Refugees Under Indian Judiciary'

17/8/21
Chairperson DRC

DRC Member(s)

Name, Designation & Signature

Note: Send a copy of duly filled report to:

a) DRC Members
b) Ph.D Scholar
c) Ph. D Office
d) Dean Research